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1871

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 586,381	06 02 2000	David E. Green	2130	7037

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MILLIKEN & COMPANY  
920 MILLIKEN RD  
PO BOX 1926  
SPARTANBURG, SC 29304

EXAMINER

WACHTEL, ALEXIS A

ART UNIT	PAPER NUMBER
1771	

1771

DATE MAILED: 12/19/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

MF-4

<b>Office Action Summary</b>	Application No. 09/586,381	Applicant(s) GREEN ET AL.	
	Examiner Alexis Wachtel	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 06/02/2000.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-28 is/are pending in the application.
  - 4a) Of the above claim(s) 11-14 and 25-28 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-10, 15-24 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

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*Detailed Office Action*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 11-14, 25-28 drawn to a method of making a coated woven/non-woven sheet, classified in class 156, subclass various.
- II. Claim 1-10, 15-24, drawn to a coated woven/non woven, classified in class 442, subclass 123.

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, a materially different product can be made by using the instant method to apply a vinyl coating rather than non- electrically conductive topical matrix to make the coated woven/non- woven sheet.

3. A telephone call was made to William Parks on December 3rd, 2001 to request an oral election to the above restriction requirement. Claims 1-10, 15-24 were elected with traverse.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in

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the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10, 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US 8,849,311 to Sawan et al.

Sawan et al discloses a contact -killing coating on a substrate (Col 4, lines 21-26) wherein the biocidal material used is of a metallic material, wherein the metallic material can be a metal, metal oxide, metal salt, metal complex, metal alloy or mixture (Col 3, lines 47-52). Metals that can be used include silver, zinc, camium, lead, mercury, antimony, gold, aluminum, copper, platinum and palladium, their salts, oxides, complexes, and alloys. (Col 3, lines 47-60). Said metallic material is in particulate form that is dispersed in an emulsion (Col 4, lines 1-5). Said metals constitute biocidal portion of contact-killing coating and typically comprises from about 0.005 to about 0.5% by weight of contact-killing coating. Said contact -killing coating can be used on wound dressing, personal hygiene products, household products, food preparation surfaces and packaging, water storage, treatment and delivery systems, biosensitive systems lab equipment (Col 12, lines 32-40) as well as surgical gloves (Col 1, line 67).

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Conventionally, wound dressings are wovens or nonwovens, food packaging materials and surgical gloves are films and personal hygiene products such as diapers have non woven materials as well as film layers that could be coated with said contact-killing coating. Inherently, if contact-killing coating is applied to a woven or nonwoven, at least some yarns or fibers will be coated completely.

8. Although Sawan et al does not explicitly teach the limitations: percentage of said coating remaining on substrate after 10 washes, electrical non-conductivity of metallic material used in coating, or claimed log kill rate, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. metallic biocidal suspension or coating wherein contact-killing biocidal metallic material typically comprises from about 0.005 to about 0.5% by weight of coating applied to a substrate) and in the similar production steps (i.e. coating said biocidal suspension to a substrate) used to produce the biocidal coated substrate. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alexis Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays- Fridays from 10am to 6pm.


If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Terrel Morris, can be reached at (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



CHERYL A. JUSKA  
PRIMARY EXAMINER